

# **What Exactly (if Anything) Is Wrong with Paternalism Towards Children?**

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*Abstract: Theoretical and practical issues concerning the justification of paternalism towards children are widely debated in a variety of philosophical contexts. The major focus of these debates lies either on questions concerning the general legitimacy of paternalism towards children or on justifications of paternalism in concrete situations involving children (e.g., in applied ethics). Despite the widespread consensus that the legitimacy of educational paternalism in important respects hinges on its principled, temporal and domain-specific limitation (e.g., via a soft paternalist strategy), surprisingly little has been said about conditions and criteria that determine what exactly (if anything) is morally wrong with paternalism towards children. This contribution aims to further the understanding of these normative issues by providing a critical analysis of the theoretical and methodological difficulties involved in developing context-invariant criteria for the identification of specific wrong-making features of paternalist rationales and paternalistically justified practices in cases involving children. I am going to show that the moral status of pro- and anti-paternalist reasons is much more context-sensitive than usually assumed by proponents of standard generalist justificatory strategies. In conclusion, my argument is that a moral particularist and casuistic framework may offer an adequate theoretical alternative to make sense of the context-dependent wrongs (and rights) of educational paternalism.*

## **Introduction**

Theoretical and practical issues concerning the justification of paternalism towards children are widely debated in a variety of philosophical contexts. The major focus of these debates either lies on questions concerning the general legitimacy of paternalism towards children (e.g., Giesinger, 2007, 2017; Schickhardt, 2012; Drerup, 2013; Archard, 2015; Mullin, 2014; Terlazzo, 2015; Schaber, 2017) or on justifications of paternalism in concrete situations involving children (e.g., in applied ethics). Despite the widespread consensus that the legitimacy of educational paternalism in important respects hinges on its principled, temporal and domain-specific limitation, surprisingly little has been said about conditions and criteria that determine what exactly (if anything) is morally *wrong* with paternalism towards children. This contribution aims to further the understanding of these normative issues by providing a critical analysis of the theoretical and methodological difficulties involved in developing context-invariant criteria for the identification of specific wrong-making features of paternalist rationales and paternalistically justified practices in cases involving children.

In the *first* section (1), drawing on an influential conception of paternalism (Shiffrin, 2000), I will discuss the methodological question of if and to what extent the assumed wrongness of paternalism

should be integrated as a constitutive normatively charged element into the concept of paternalism itself. The second section (2) analyses potential wrong-making features of different paternalist rationales and paternalistically justified practices. Arguably the most important rationales distinguished in the paternalism debate are *soft* and *hard* as well as *weak* and *strong* paternalism, which are in opposition to *non-* or *anti-*paternalism. *Hard paternalism* is the view that benevolent interferences into the domain of autonomous judgment or liberty of action of an agent can, at least in some cases, be justified even when the agent is sufficiently competent and autonomous. *Soft paternalists* only regard interventions as justified in cases in which the agent is (probably) not sufficiently competent and autonomous. If a person is wandering over an old bridge that may soon collapse (to use Mill's famous example), a soft paternalist would try to make sure that the person actually knows about the condition of the bridge. If this is the case, a soft paternalist would not stop the person from walking over the bridge (even though this is imprudent and dangerous). Hard paternalists would stop the person even if she made a sufficiently voluntary and autonomous decision (e.g., perhaps she loves the thrill). Analogously, *strong paternalists* believe that it can be legitimate to interfere with a person's ends (e.g., because they regard these ends as irrational). A *weak paternalist* assumes that only such interferences are legitimate that concern the means an agent employs to achieve her ends. A weak paternalist would interfere with her friend's plan to get rich by investing all her money in the lottery, because she does not think that the plan will work out. A strong paternalist may interfere in this case because she believes that getting rich is not a reasonable aim in life.

In contrast, *non-paternalistically justified* interventions do not aim at the individual's well-being but at some other social good. A mandatory obligation for cyclists to wear helmets may, for instance, be justified by referring to the costs of accidents for insurance companies. *Anti-paternalism* can be conceptualized as the doctrine that judges interferences (or *reasons* for these interferences: see the filter approach to anti-paternalism advocated by Grill, 2015<sup>1</sup>) into individuals' autonomy of judgment or liberty of action as *pro tanto* wrong, *because* they aim at the well-being of the agent. Anti-paternalists may argue that mandatory insurance for all citizens is not a legitimate policy because it is not the state's business to attempt to further peoples' well-being. My discussion of these distinctions will show that established generalized dismissals of particular forms of paternalist rationales (e.g., hard paternalism; 2.1) or paternalistically justified practices (e.g., paternalistically justified manipulation; 2.3) based on principles and considerations about their "paternalistic" quality are misguided and display an overly simplified picture of the theoretical problems at stake. Principled considerations and distinctions to identify wrong- and right-making features of paternalism (and also of anti- and non-paternalism) necessarily have to remain abstract, hypothetical and to a certain extent provisional. They provide only limited theoretical guidance when it comes to the adequate and context-sensitive interpretation and evaluation of concrete real-world cases (2.2). The failure of generalist justificatory strategies to provide sufficiently fine-grained and context-sensitive ethical orientation suggests that a moral particularist and casuistic framework may offer an adequate alternative to develop a theoretical account of the context-

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<sup>1</sup> Grill's approach is based on the premise "that principled antipaternalism is best understood as a filter that prevents certain facts from playing the role of reasons (for certain actions). ... The antipaternalist filter prevents the fact that the limitation of some person's liberty causes the promotion or protection of her good from playing the role of a reason for such limitation" (Grill, 2015, p. 52). Thus, principled anti-paternalists do not accept rationales that entail limiting the liberty of an agent in order to promote or protect her good, *because* these rationales aim at the good of the agent.

dependent wrongs (and rights) of educational paternalism.

Thus, my argumentative aim is simultaneously rather limited in scope *and* far-reaching. It is limited since it will not provide another generalist justificatory framework that teaches us about the principled legitimacy or illegitimacy of paternalism in education. It is far-reaching because it challenges the plausibility of the underlying axiomatic meta-ethical and methodological assumptions of established forms of generalist justificatory strategies by demonstrating the essentially context-dependent character of the moral status of paternalist rationales and paternalistically justified practices. The major aim of my methodological critique, however, is not to abandon generalist approaches entirely and for all practical purposes (e.g., training of educational professionals), but rather to make sense of some of the many (usually underestimated) difficulties generalist approaches to the justification of educational paternalism still have to resolve and to develop a plausible moral particularist explanation why these difficulties will not be resolved in the near future.

## 1. Why Paternalism Matters: Conceptions and Constellations

The ongoing modern debate about an adequate interpretation of the concept and different conceptions of paternalism from the 1960s to today (cf. the latest conception of G. Dworkin, 2016) indicates that paternalism, like education (MacIntyre, 1973), can be interpreted as an essentially contested concept (Gallie, 1955; Drerup, 2013). In light of the “clamorous cacophony” (Garren, 2006, p. 340) of competing conceptions, however, it remains disputed whether there even exists something like a core concept of paternalism at all, or rather “only paternalisms” (p. 341). These conceptual intricacies are aggravated by the problem that paternalism as an umbrella term covers a variety of other highly disputed or essentially contested concepts (e.g., autonomy, liberty, interference, respect, well-being).

One of the central problems of the conceptual paternalism debate concerns the question of whether disagreements about its conceptual content and scope of application are based on conceptual, on empirical or on normative disagreements (G. Dworkin, 2016). This problem is not only relevant when it comes to conflicting interpretations and often normatively charged (metaphorical) descriptions of concrete cases (e.g., paternalism as an “attack on liberty”), but also in the context of the discussion about a general concept of paternalism (e.g., paternalism as an “imposition” of values). Kalle Grill has distinguished four core elements which are characteristic of most conceptions of paternalism:

- 1) an *interference condition* which delimits the kind of action that may be paternalistic, most often excluding non-intrusive actions such as greeting someone in the street (when this is not a sign to fellow paternalists to capture the person and force her to be more prudent).
  - 2) a *consent condition* which limits paternalistic actions to such actions as have not been consented to—excluding actions that are performed in response to explicit consent, and possibly also tacit and inferred consent.
  - 3) a *benevolence condition* which limits paternalistic actions to such actions as are motivated, and perhaps also justified, by the good of the person(s) interfered with.
- Very often, there is also:
- 4) a *superiority condition* which restricts paternalism to such actions as are performed by an agent who considers herself in some way superior to the person(s) interfered with. (Grill, 2012, p. 4–5)

The concrete interpretation and specification of each of these four elements is highly disputed. The same holds for the question of if and to what extent each of the conceptual components of the concept of paternalism (singularly and in combination with others) is supposed to be interpreted as constituting a potential moral wrong towards the agent. The benevolence condition (3), for instance, is interpreted sometimes as a moral wrong to be specifically associated with paternalism (e.g., as a form of morally and/or epistemically grounded pretentiousness) and sometimes as a right-making feature of paternalism (the paternalist, in contrast to the non-paternalist, is at least benevolent). Similar disagreements have been voiced with regards to the correct interpretation of superiority conditions (4). In Shiffrin's widely debated interpretation of the concept of paternalism as a "*thick* negative ethical term" (Coons & Weber, 2013, p. 5), for instance, a superiority condition plays a prominent role:

- [P]aternalism by A toward B may be characterized as behavior (whether through action or through omission)
  - (a) aimed to have (or to avoid) an effect on B or her sphere of legitimate agency
  - (b) that involves the substitution of A's judgment or agency for B's
  - (c) directed at B's own interests or matters that legitimately lie within B's control
- (d) undertaken on the grounds that compared to B's judgment or agency with respect to those interests or other matters, A regards her judgment or agency to be (or as likely to be), in some respect, superior to B's. (Shiffrin, 2000, p. 218)

Shiffrin's aim is to both broaden the scope of cases that can be covered by the term "paternalism" and sharpen our understanding of why paternalism matters, why it is normatively significant and what the reasons are for widespread skepticism towards it. The major novelty of Shiffrin's concept consists in skipping the benevolence condition and replacing it with a superiority condition as a qualification of the attitude of the paternalist (d), a formal condition referring to the domains of action and judgment that *legitimately* lie within the addressee's control (c) and a more substantive condition referring to what the paternalist does (substitution of judgment or agency) (b). Together these conditions are closely tied to the presumed attitudes towards paternalistically motivated actions of individuals involved in a constellation. Shiffrin's assumption concerning allegedly widely shared intuitions about the wrongness of paternalism—which certainly could be questioned on an empirical basis (e.g., the debate about experimental philosophy; Knobe & Nichols, 2014)—clearly shows that on her account the reason why paternalism matters is that it conveys "a special, generally impermissible, insult to autonomous agents" (Shiffrin, 2000, p. 208). This characterization of paternalism can be understood as a normative reconstruction of what actually happens (or should happen) if a person is acting within arrangements<sup>2</sup> that are implemented with a paternalistic motivation (the person should feel insulted). It also delivers an interpretation of what actually happens if an agent is paternalistically motivated: "The essential motive behind a paternalist act evinces a failure to respect either the capacity of the agent to judge, the capacity of the agent to act, or the propriety of

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<sup>2</sup> Theoreticians of educational paternalism tend to underestimate the importance of paternalistically motivated *institutionalized arrangements*. The action-theoretic orientation displayed in standard conceptions of paternalism (G. Dworkin, 2016) ignores the fact that educational paternalism in modern societies is to a large extent taking place in organizations. By conceptualizing the paradigmatic standard case of paternalism in terms of a face-to-face interaction, the role of paternalistically motivated arrangements and rules that regulate behavior of *groups* and *pre-structure* paternalistically motivated actions and interactions in the context of organizations is not sufficiently taken into account.

the agent's exerting control over a sphere that is legitimately her domain" (p. 220).

The hermeneutic framework Shiffrin offers to make sense of the concept of paternalism certainly has certain advantages—especially from an anti-paternalist position. Even though Shiffrin concedes that her account leaves “*logical* room for dispute about the justifiability of paternalism” (2000, p. 220, f.n. 25), her introduction of paternalism as a term of criticism not only makes clear why “paternalism matters,” but also makes clear from the start that defending paternalism cannot be a very attractive position (Who wants to be insulting, anyway?). As a result of conceptually tying paternalism to an insulting attitude, debates about paternalism’s legitimacy are systematically transformed into debates about the adequate reconstruction of the scope of application of the *concept* of paternalism (which is helpful for a clarification of neither conceptual issues nor normative ones). Shiffrin’s approach thus entails that “people who disagree on the moral status of paternalism will disagree on the nature and even existence of paternalism. Those who find quite acceptable what Shiffrin and others call paternalism, will have to claim that there exists no paternalism” (Coons & Weber, 2013, p. 6). The attempt to characterize paternalism as something that is to be regarded as *a priori* objectionable consequently has the questionable result that defenders of paternalistically motivated arrangements (e.g., incentive structures, choice environments) will have to search for alternative concepts to make sense of their positions. The idea to capture anti-paternalist intuitions by a definition of paternalism—without providing good *anti*-paternalist arguments for this position—is akin to the rather odd and unreasonable demand that an “acceptable definition of utilitarianism must capture what the anti-utilitarian finds deplorable about it” (Bullock, 2015, p. 4). Shiffrin’s conception of paternalism thus demonstrates how problematic and question-begging it is to try to pinpoint the specific wrongness of paternalism by integrating particular and controversial assumptions drawn from particular and controversial moral theories and moral psychologies into the concept of paternalism itself.

Questions of when and why paternalism is objectionable and what counts as a wrong-making feature of paternalism cannot be plausibly answered solely by appeal to more-or-less plausible deontological intuitions or hypothetical examples, or on the basis of normatively impregnated definitions. These questions refer to empirical constellations in the real world and should be regarded as open empirical questions (cf. Sunstein, Reisch, & Rauber 2017) to be dealt with on a case-by-case basis in particular domains, specific contexts and with regard to concrete problems. Apart from offering basic—necessarily relatively vague and essentially contested—conceptual distinctions (hard/soft, etc.) and more-or-less flexible conditions, the debate about general definitions of the term “paternalism” *cannot* by itself predetermine different ways of applying different conceptions assembled under the umbrella in particular contexts (e.g., autonomy, interference). Thus, if one wants to avoid the reproduction of popular prejudices and misconceptions by the means of conceptual analysis, besides an explication of the relevant—essentially context dependent—value conflicts constitutive of particular forms of paternalism, a general definition *should not* play the role of predetermining the evaluation of particular instances of paternalism in particular settings. If we decide that, based on our theoretical background assumptions (e.g., theory of autonomy or liberty), the application of the term “paternalism” to a certain constellation is adequate, we first and foremost only state that a certain *model of justification* is apt to describe this particular constellation. We neither have to assume that the constellation itself is especially morally problematic nor that the model of justification or any of its components that we use to reconstruct the constellation is by itself involving some inherent moral wrong. Instead, the primary reason why *paternalism matters* is not based on its inherent and context-

invariant moral wrongness somehow built into its conceptual structure, but simply on the fact that the value conflicts (e.g., between autonomy and well-being) it describes are structural features of a variety of social domains and practices (cf. Kultgen, 2014). This is the only way to capture the plausible assumption that paternalism describes practices and arrangements principally in need of justification, without drawing on strong normative assumptions that already predetermine the ethical debate on a conceptual level or disqualify certain moral theories *a priori*.

A fair and balanced discussion of the normative issues at stake, however, not only has to take into account the potential wrongs of paternalism, but also has to apply the same standards to anti- and non-paternalist positions. It is seldom noted that similar normative worries usually associated with paternalism could and should also be raised with regards to anti-paternalism and non-paternalism. Omissions to interfere with an action for the reason that it may benefit the agent (anti-paternalism), for instance, are certainly not *per se* morally unproblematic, but in some cases (e.g., in the context of educational constellations or friendships) can be evaluated as questionable forms of indifference or carelessness. The same holds for non-paternalist doctrines which justify educational arrangements by referring to social goods other than the well-being of individuals (e.g., a flourishing economy). Anti-paternalist doctrines, even though often taken for granted as normatively unproblematic, thus can be confronted with similar criticisms as paternalist doctrines. In short: Paternalism, anti-paternalism and non-paternalism *as such* are neither morally wrong nor right; they are first and foremost *models of justification* used to describe and legitimize certain practices in the context of certain constellations.

## 2. The Wrongs of Paternalism Towards Children: Generalism Versus Particularism

Since the assumption that paternalism conceptually constitutes a *malum in se* is not plausible, a more promising strategy will be to analyze the potential wrong-making features of different paternalist rationales and paternalistically structured practices. If paternalist rationales would be constitutive of *all* types of educational practices and arrangements, the question concerning the specific wrongs of paternalism would be identical to the question concerning the legitimacy of education as such. Even though paternalist rationales are deeply embedded in the structure of the theory and practice of education both in classical and modern philosophy of education, it is important to note that educational practices usually not only realize a multiplicity of educational aims and values (Biesta, 2015) but also allow for a plurality of different metaphorical descriptions, evaluations and coordinated justifications. In light of a plurality of interpretative reconstructions of the normative structure of educational practices (e.g., Prange, 2005) and a plurality of competing philosophical methodologies to reconstruct practice-inherent norms (e.g., Stahl, 2013), it is plausible to assume that in the case of education the “relation between value and practice (is) fairly loose and flexible; otherwise the practice will block too many possible interpretations” (Raz, 2001, p. 118). The same holds for different rationales to justify educational practices. The rather flexible possible applications of the harm principle indicate that for every paternalist justification of education we may quite easily find non-paternalist justifications (e.g., compulsory schooling can be justified primarily with reference to children’s well-being or other social goods). The learning argument, for instance, is sometimes interpreted as an argument against paternalism (e.g., because paternalism may prevent children from acquiring a certain skill; Giesinger,

2007). It can, however, also be understood as an argument that is justified on paternalistic grounds (e.g., in terms of a paternalistically motivated omission to interfere with X that emphasizes the positive effects of X's learning for her well-being; cf. Sunstein, 2015a). The problem of multiple rationales, however, does not imply that the relation between educational practices and paternalist rationales is entirely contingent (Drerup, 2013, 2016). It solely indicates that questions concerning the justifiability of educational paternalism do not encompass all aspects of educational practices that are of normative and evaluative relevance (Birnbacher, 2015).

This is one of the reasons why it is of crucial importance to clearly differentiate between paternalist rationales (and the principles embedded in a particular rationale) and paternalistically justified practices. If one thinks about the relation between paternalist rationales and paternalistically justified practices in terms of a simple exercise in deduction that allows for a one-to-one application from rationale to practice, one underestimates the hermeneutical and practical complexities involved in determining what actually follows practically from a general rationale for the design of concrete arrangements. In contrast to this simplified picture, different combinations of paternalist reasons and particular practices instead usually have the form of a *loose coupling*, in the sense that a paternalist rationale is not automatically and necessarily implicated in the structure of a particular arrangement (as is sometimes suggested by advocates of Nudging; see the critique of Kelly, 2013). Thus, paternalist rationales may allow for a multiplicity of different practices in the educational field, *but they are not to be confounded with these practices*. Take the example of paternalistically justified arrangements: A little gate may originally have been assembled at the top of a stairway to prevent little children from falling down it. If the arrangement stays the same as the kids grow older and sufficiently self-reliant to walk down the stairs without help, the rationale does not apply any more as soon as the children understand the reasonableness of the arrangements. Or consider the example of an app that blocks certain online content from children's mobile phones. The app *as such* is certainly not paternalistic, but its use can be justified on paternalistic grounds. A confounding of rationale and practice that usually expresses itself in terms like "paternalist action" (and not paternalistically *justified* action), however, results not only in an exclusion of alternative possibilities to interpret, evaluate and justify particular constellations, but also in a misguided reconstruction of the potential wrongs of educational paternalism.<sup>3</sup>

In what follows I will make a case for a moral particularist approach to educational paternalism by providing an analysis of the context-dependence of potential wrong-making features of some of the most important paternalist rationales (hard/soft and strong/weak forms of paternalism) (2.1) and corresponding principles (2.2), as well as of paternalistically justified practices and constellations (2.3). I will argue that, due to the essential context-dependency of the moral status of reasons for or against educational paternalism, generalist justifications of educational paternalism (e.g., Giesinger, 2007; Drerup, 2013), generalist justificatory methodologies (e.g., the principlism of Beauchamp & Childress, 2009) and heuristics (e.g., the tendency rules of Schickhardt, 2012; Birnbacher, 2015) are not fine-grained enough to provide ethical orientation with regards to the immense heterogeneity and complexity of concrete educational situations. Thus, it is not possible to deduce the potential wrongs or

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<sup>3</sup> In some discussions it is for instance rather unclear whether the morally questionable aspect of paternalism is due to the fact that a practice (e.g., coercion) is justified *paternalistically* or due to some wrong-making feature of the practice itself (e.g., the debate between Shapiro, 1999, 2003 and Ben-Porath, 2003). A plausible answer to the question of what exactly (if anything) is wrong with paternalism therefore will have to be careful to differentiate between the level of rationales and the level of practices.

rights of every conceivable form of paternalism in a top-down fashion from general principles to individual cases, and generalist approaches do not allow for a methodologically sound reconstruction and specification of *context-invariant* reasons for the assumed categorical or *pro tanto* wrongness of paternalist rationales or paternalistically justified practices.

## 2.1 The Wrongs of Educational Paternalism: Rationales in Context

Probably the most important strategy to justify paternalism towards children is based on the idea of its specification, limitation and division relative to certain educational aims, relative to specific individual and social domains and relative to different institutional actors with different and sometimes competing rights, interests and obligations (families, communities, the liberal state, etc.). Consequently, the context-specific boundaries of legitimate paternalism are drawn differently in different social domains (e.g., schools) and professions (e.g., social work). In the context of debates about the legitimate limits of paternalism it is almost a platitude that soft or autonomy-oriented paternalism and corresponding consent-based justifications (e.g., hypothetical consent) are easier to justify than hard paternalism and corresponding perfectionist justifications, for instance, which are sometimes regarded as objectionable *per se* (e.g., Feinberg, 1986). While the latter justify interventions *irrespective* of the competency of the agent, the former hold paternalism only justified as long as the agent is not sufficiently locally or globally autonomous and thus aims at the cultivation and enablement of the relevant competencies and attitudes, for instance, in the context of an autonomy-facilitating or promoting education. Children are usually not yet fully and globally autonomous and have not yet developed a stable conception of the good. Nevertheless, soft versions of paternalism towards children are also in need of justification and are certainly not always justifiable. It is possible, for instance, that the way soft paternalism is realized in practice may be inefficient and/or illegitimate because it may be in conflict with some other value (well-being), that hard forms of paternalism today may be necessary to realize the goals of soft paternalism in some future time (to be autonomous one arguably needs to be sufficiently healthy), and that intended soft paternalism may be perceived retrospectively by the agent as a hard paternalist imposition. This is why it is often rather questionable how *soft* soft paternalism in fact is. Depending on the conception of autonomy presupposed in formulating a soft paternalist rationale, soft paternalism may turn out to be hard paternalism in disguise, for instance as a form of *governing through autonomy* (Fateh-Moghadam & Gutmann, 2013; cf. also Pope, 2005) that accepts only those choices as expressive of real and valuable forms of autonomy that correspond to one's favorite conception of autonomy (e.g., Kantian or Razian), or as a form of *choice-requiring paternalism* that forces individuals to choose irrespective of their own preferences for or against choice (Sunstein, 2015a).<sup>4</sup>

It is often overlooked that the definition of threshold levels of autonomy in the context of different regimes of childhood (Anderson, 2014) can itself be regarded as a paternalistically motivated enterprise. Thus, the more demanding one's conception of autonomy, the more soft paternalism may be justified

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<sup>4</sup> Much recent literature on paternalism towards children has focused on a dilemma that standard liberal justifications of paternalism have to deal with: If we presuppose a strong conception of autonomy that operates with high thresholds, more forms of paternalism towards children will be regarded as legitimate. Since many adults also do not reach the relevant thresholds, this would imply that we would have to allow more paternalism towards adults than usually deemed appropriate from a liberal perspective. If we base our justification on a weaker conception of autonomy, many forms of paternalism towards children often regarded permissible would lose their evaluative foundation (see: Archard, 2015; Terlazzo, 2015; Giesinger, 2017).

and the more prone the distinction between soft and hard paternalism itself is prone to collapse. This problem, which is well-known since the classical critiques of Berlin and Foucault, does not indicate that these forms of implicit hard paternalism are especially hard to justify. On the contrary, it is an established, although often implicit normative assumption in educational theory and practice that the instrumental value of autonomy also depends on the quality of the choices made by the individual. This assumption is based on a hard paternalist rationale that can often be regarded as perfectly legitimate—especially in light of the alternative: If one respects every choice of a sufficiently locally autonomous child (relative to a threshold conception of autonomy) and ignores the likely consequences of a bad decision, this can turn out to be a form of negligence. Moreover, allegedly soft paternalist rationales (e.g., arguments from the true and authentic self, conceptions of hypothetical rational consent, etc.) are not *per se* easier to justify because they are in some often rather indirect and temporally extended way displaying an autonomy-orientation. This especially holds in light of the contemporary tendency to integrate a bunch of other values and virtues into the master concept of autonomy (Wall, 2003) because allegedly formal and procedural autonomy as an educational aim seems easier to justify (Ebels-Duggan, 2014). The label “soft” or “autonomy-oriented” paternalism often functions as a cover-up for more substantive moral disagreements and can be attached to a variety of different and not necessarily functionally equivalent educational practices and arrangements that can be interpreted as expressing an autonomy-orientation in a plurality of sometimes conflicting ways (e.g., disrespect for minimal autonomy X at t1 in domain Y for the sake of global autonomy at t2 or local autonomy in domain Z at t2, restriction of global-minimalist autonomy at t1 for the sake of maximalist-perfectionist autonomy at t2, etc.).

Especially in the context of educational constellations, that is from the perspective of a role-and status-based conception of educational paternalism (cf. Giesinger, 2017),<sup>5</sup> both kinds of rationales are usually much more intertwined than usually assumed. If we try to influence the decision-making process of an adolescent who is about to make a far-reaching decision and arguably an irreversible

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<sup>5</sup> In contrast to standard conceptions of paternalism (e.g., G. Dworkin, 2016) that conceptualize paternalism as a form of “interference” or “intervention,” according to *role- or status-based models of paternalism* it is the social constellation that constitutes the paternalistic quality of the interaction by framing the background assumptions and mutual expectations (and expectations concerning expectations) of the agents involved. A constellation functions as a social and evaluative framework consisting of assumptions, expectations and value orientations (e.g., institutionalized in the form of roles) concerning rights, obligations, social and moral status and appropriate forms of behavior that *structures* the interaction between agents. Different kinds of action types (argumentation, negotiation, etc.) as such may not be qualified as paternalistic according to the standard model, because there is no benevolent “interference” or “intervention” taking place in a strict sense, but they may nevertheless be part of a paternalistically structured constellation. The practice of negotiating with a child, for instance, can be reconstructed as a paternalistically structured practice, not because it constitutes an “intervention into the autonomy” of the individual but due to the nature of the social constellation, which expresses itself in the way the agents communicate and interact. In contrast to a narrow means-based conception of paternalism, role- and status-based models thus do not exclude communicative forms of more or less *rational influence* as examples of paternalism. The narrow traditional Millian focus on specific means (coercion, etc.) and individual actions as assumed prototypes and paradigmatic examples of paternalism cannot capture the fact that the way paternalism is processed interactively and realized operatively over temporally extended periods of time in educational constellations and educational professions is not primarily via interventions, but as a form of communicative influence embedded in asymmetric interaction orders. Accordingly, many forms of educational paternalism are forms of interactive (Schramme, 2012) or participative paternalism (Giesinger, 2007). These paternalistically justifiable dialogical practices do not intervene in a stable will but aim at influencing the *processes* of forming certain volitions and their content in the context of asymmetrically structured social practices.

mistake, we will aim at both: a more autonomous decision-making process (soft paternalism) *and* a better decision in terms of outcomes related to other values than autonomy (hard paternalism). Likewise, children's moral vulnerability, for instance, can count as a reason for *and* against soft *and* hard paternalism. We may favor a soft paternalist rationale to make children less vulnerable to certain influences (e.g., advertisement) by fostering their ability for critical thinking, or we may favor a hard paternalist rationale, for instance in the form of a conceptual (R. Dworkin, 1989) or epistemic paternalism that aims at shielding them from these influences (e.g., "sugar-free" cashiers, "no TV after 6"). The former rationale may—depending on the context—constitute a moral wrong by forcing the child to deal with influences she does not want to deal with or may not be able to deal with due to her psychological constitution. The same may hold for the latter rationale, for instance in the case of overprotective parents. Thus, we cannot just "read off" the rightness or wrongness of a rationale—irrespective of the particular situation—from the fact that it exemplifies a general normative and evaluative orientation. Moreover, we can always construct multiple rationales for the same arrangement: The creation of opportunity structures for children can be justified with recourse to a soft paternalist rationale by emphasizing their autonomy-promoting features or with recourse to a hard paternalist rationale by emphasizing the importance of goods that are not (necessarily) autonomy-related, such as valuable experiences and intrinsic goods of childhood (Gheaus, 2015). In these and other cases it remains unclear why a hard paternalist rationale (e.g., based on some perfectionist conception of a good childhood) should be more prone to constitute a wrong towards children (if at all) than softer forms of paternalism.

Similar problems can be identified with regards to the attempt to delineate different justificatory burdens associated with paternalist rationales based on differentiations between means and ends as it is presupposed in the distinction between weak and strong paternalism (G. Dworkin, 2016) as well as analogous distinctions between means-oriented and ends-oriented (Conly, 2013) and volitional and critical paternalism (R. Dworkin, 1989). While weak paternalism is arguably easier to justify since it only helps individuals to achieve their own subjective aims, strong paternalism is deemed much harder to justify since it externally imposes a set of values on the agent. A weak paternalist may, for instance, interfere in her friend's plan to use pharmacological neuro-enhancers to improve her cognitive performance, because she is skeptical about the effectiveness of the medication. A strong paternalist will intervene because she regards her friend's aim (improvement of cognitive performance) as mistaken (e.g., because she relies on a conception of the educated person that emphasizes the harmonious development of emotional, cognitive, and social dispositions and capacities). The distinction between means and ends, which is sometimes introduced analogously to the distinction between facts and values (G. Dworkin, 2016), has a long tradition, including in educational theory (Brezinka, 1981). It is seldom seen, however, that decisions about certain means also involve additional decisions about values, which are not predetermined by decisions about the ends (Luhmann, 1973, p. 44–45). The decision to intervene in the choice to use pharmacological means to enhance cognitive performance is also based on a value judgment, which cannot simply be deduced from the choice of ends. Likewise, it constitutes a normatively relevant difference (both in terms of the means and in terms of the ends) whether an agent enhances her performance by pharmacological means or by going to the library in order to read some books. Consequently, the selection of adequate means has to play a role when it comes to considerations about the ends (Sunstein, 2014, p. 69), and the choice of means usually influences the choice of ends (p. 68). Moreover, if one considers the temporal dimension and different

possible descriptions of a constellation (p. 70), the ends can constitute subordinated means for other ends and means can incorporate subordinate ends (Wolfe, 1994, p. 625). Thus, “the line between means and ends can be fuzzy” (Sunstein, 2013, p. 7)<sup>6</sup> and the alleged easier justifiability of weak paternalism based on considerations of allegedly value neutral means cannot be upheld.

In short, the established neo-platonic educational idea of a pure form of soft paternalism can be regarded as an idealization, perhaps even a pedagogical legend, that hardly corresponds to the mundane problems and pragmatics of justification to be dealt with under real-life conditions. Likewise, generalized judgements concerning the alleged easier justifiability of soft or weak paternalism compared to the alleged inbuilt greater wrongs of hard or strong paternalism that are brought forward in the context of idealized justificatory strategies capture neither the complex social structure of most forms of educational paternalism nor the complex evaluative issues at stake in the context of different paternalist rationales. Thus, instead of basing our judgments about educational paternalism on some kind of moralistic essentialism, it is more plausible to assume that neither paternalist rationales as such nor the specific “paternalistic quality” of paternalist rationales do constitute *mala in se*. Instead they are to be understood as multi-purpose justificatory frameworks, whose application and interpretation is flexible and complex and whose adequate evaluation cannot be determined on a general level but only in the context of concrete cases.

## 2.2 The Wrongs of Educational Paternalism: Principles in Context

The difficulties in identifying context-invariant wrong-making features associated with paternalist rationales are indicative of major methodological problems in generalist approaches to the ethics of educational paternalism. The dominant methodological paradigm in the debate about the rights and wrongs of paternalism towards children displays a double-generalist orientation: It is based on the assumptions that categorical or *prima facie*<sup>7</sup> principles provide theoretical and practical orientation when it comes to the evaluation of the legitimacy of specific forms of paternalism, and that reflections based on *prima facie* principles enable us to identify wrong-making features of paternalism towards children that are valid irrespective of the context in which they are brought forward.

The *first* assumption, which is for instance spelled out in methodologies such as Beauchamp and Childress’ “principlism” (2009), also known as the “Georgetown Mantra” (Lustig, 1992), has been criticized on the grounds that principles can—due to the lack of inferential determinacy of general norms (Salloch, Schildmann, & Vollmann, 2012, p. 262)—never be specific enough to incorporate their own conditions of application. It is also not possible to formulate priority rules (or meta-principles) to dissolve conflicts between different specifications of principles in each and every case (e.g., autonomy vs. benevolence). Thus, what exactly follows from a set of general principles for the evaluation of

<sup>6</sup> “To know whether a paternalistic intervention is about means or ends, we might have to identify the level of generality at which people’s ends are to be described. If the end is ‘for life to go well,’ then all forms of paternalism, including the most ambitious, seem to qualify as means paternalism, since they are styled as means to that most general and abstract of ends. But if the end is very specific—‘To buy this product today’ or ‘To smoke this cigarette right now?’—then many and perhaps all forms of paternalism qualify as ends paternalism” (Sunstein, 2014, p.70).

<sup>7</sup> *Prima facie* principles are principles that are supposed to be invariably valid, but—in contrast to categorical or absolute principles—operate with *ceteris paribus provisos* and thus have to be balanced against other *prima facie* principles in cases of value conflicts (Schmidt, 2012).

concrete situations is usually controversial. Moreover, the interpretation of a specific situation in light of a principle (or set of principles) involves neglecting many relevant aspects of the particular situation, since otherwise it would not be possible to interpret the situation as a case that can be subsumed under the principle (Esser & Salloch, 2012, p. 228). Competing specifications of a principle are based on differing assumptions concerning what is of empirical relevance in a particular case (relative to different theoretical frameworks; Salloch, Schildmann, & Vollmann, 2012, p. 260). This consequently leads to different interpretations of the value conflicts at stake. It remains unclear though in what sense it may actually further our ethical understanding of a particular paternalistically justified arrangement (e.g., a nudge) when we describe the complex normative issues at stake as a conflict between two principles (autonomy vs. benevolence) that are in need of specification.<sup>8</sup> Moreover it is questionable whether these value conflicts are adequately described as conflicts of competing abstract and context-invariant (*prima facie*) "principles" in the first place. Due to the many possible ways a "principle" (e.g., of respect for autonomy) may be specified in a given educational constellation, it seems rather improbable that all these competing specifications indeed should be interpreted as stemming from a single, unified conceptual and normative source (a principle). It is more plausible to make sense of these conflicting interpretations as a result of a multiplicity of competing *context-dependent* (autonomy-related) *reasons* that can be applied in light of an evaluative description of a *particular example*. Because the moral status of these reasons varies in the context of different (counter-)examples and their evaluative and theoretical description (e.g., based on hierarchical, externalist, internalist, procedural, substantive and/or relational conceptions of autonomy), they cannot in their plurality and heterogeneity be subsumed under a single *prima facie* principle that provides context-invariant criteria to determine the moral wrongs and rights to be associated with a specific form of educational paternalism.

The shortcomings of generalist frameworks to provide principled guidance in concrete cases can be pointed out by analyzing the important methodological and argumentative role of examples in the debate. The capacity of (*prima facie*) principles to adequately orientate our judgment about paternalism's legitimacy is usually made plausible with reference to particular examples and their evaluative description. These examples are then challenged by counterexamples which results in the formulation of new and more specific principles which then again are questioned by new counterexamples and so on (cf. Drerup, 2013; Düber, 2016, p. 175). Contrary to generalist methodologies the judgment that a specification of a principle is plausible with regards to a given set of examples is usually not deduced (*top-down*) from the principle to a specific case but is based on *bottom-up* reflections on (assumed) shared intuitions about paternalism's wrongness or rightness in *particular* cases. Thus, the formulation and development of specific principles can be interpreted as the result of an *ex post explication* of what was *beforehand* identified as morally relevant features of a certain example based on our *power of moral judgement*. In other words, the identification of morally relevant features instantiated in a set of examples is taken care of *before* principles come into play and *not the other way around* (Düber, 2016, p. 149). This may also explain why the relation between justificatory principles and the choice of examples to defend these principles is in many cases circular. Because the examples and their evaluative description as cases are chosen in a way that fits the principles one defends, it is consequently not very surprising that the capacity to orientate our judgments based on these principles is usually limited to the examples brought forward in support of the same principles (p. 167–168). Since the concrete normative and practical

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<sup>8</sup> The same holds for controversial and competing rules of thumb (tendency rules) whose actual relevance and interpretation in the context of real world cases remains rather unclear and vague.

implications of general justificatory strategies remain rather vague, and the interpretation of moral principles itself depends on moral judgements concerning particular situations that *ex post* are brought forward in favor of general principles (and not vice versa), it is plausible to assume that the moral status of a practice or an arrangement cannot be deduced top-down from principles and their specifications but depends on our capacity to identify and evaluate morally relevant features of a practice in a particular context.

Due to the failure of the generalist methodological project to provide sufficient ethical orientation in concrete cases, the *second* assumption (the assumed context-invariant validity of the principle-based identification of potential wrongs of paternalism) also rests on rather shaky ground. This assumption is usually expressed in standard characterizations of the evaluative and normative conflict associated with paternalism: Principles of respect for autonomy are regarded as reasons that *always* speak against paternalism and principles of benevolence are interpreted as reasons that *always* speak for paternalism. Birnbacher for instance states that thwarting “the will of a person by acting against his or her preferences is always axiologically worse than acting in conformity to his or her preferences” (2015, p. 108) and that “each single paternalistic act constitutes a violation of the child’s interests” (p. 113). This statement is based on the assumption that paternalistically motivated interferences *always* constitute a moral wrong because they conflict with a rights-based principle of respect for autonomy, and thus *always* provide a *pro tanto* reason against the action involved irrespective of the concrete circumstances (a reason which has to be balanced against other normative factors; e.g., well-being that presumably always speaks in favor of paternalism). This generalist assumption that determines what is at stake axiologically in an *a priori* fashion and based on clear-cut evaluative dichotomies is not plausible. In the case of prudentially and ethically problematic preferences or in the case of extremely bad choices, for instance, it seems questionable whether indeed something of value is disrespected or whether an interest is violated at all. In some cases the fact that an action was chosen autonomously even diminishes the value and respect-worthiness of the act. An infringement of non-valuable realizations of autonomy certainly can have a different moral status than an infringement of realizations of autonomy that aim at valuable goals. In other cases no interests of the child are violated by paternalistically motivated arrangements because the child had no fixed and stable interests in the first place or because her autonomy was only minimally interfered with or not at all. Moreover,

it is entirely possible that some paternalistic interventions will respect or even increase autonomy in some respects, while violating or decreasing autonomy in other respects, or in other persons. We can hardly think of paternalism and autonomy as opposed basic principles if paternalism often enhances autonomy, in some respects, in the regulated party and in other persons. (Wright, 2016, p. 16)

Autonomy-related reasons do not share the same moral status in each and every constellation, nor does every paternalistically motivated arrangement necessarily constitute a full-blown conflict of values or principles. It has to remain an open question whether, and to what extent, an infringement of autonomy qualifies as a moral wrong that counts as a sound reason (or a reason at all) against the implementation of a paternalistically motivated arrangement. A plausible answer to this question has to take into account the particular configuration of the contextual features of the relevant situation and cannot be given solely on the basis of generalized axiological background assumptions concerning alleged *mala in se*. Thus, generalist frameworks are too crude to capture the evaluative complexity and contextual variability of the moral status of reasons for and against educational paternalism in particular

situations. The identification of the moral wrongness or rightness of different forms of educational paternalism is a task that has to be dealt with case by case based on our power of moral judgment.

### 2.3 The Wrongs of Educational Paternalism: Practices in Context

Since the specific moral costs of educational paternalism cannot easily be determined on the basis of generalized considerations about paternalist rationales and corresponding principles, it may be worth discussing the specific wrongs associated with particular paternalistically justified educational practices. Educational practices as value-based practices obviously can lead astray and constitute moral wrongs in a variety of ways: the ends may be not sound or not reached, the means may be not sound, they may constitute normative wrongs (ought to do) or evaluative wrongs (ought to be), *et cetera*. In this section, rather than focusing on wrongs constituted by specifically educational wrongs, mistakes that are identified on the basis of accounts of the normative structure inherent to educational practices (“failures of form” in Prange, 2005; “educational normativity” in Biesta, 2015), or wrongs associated with practices that are sometimes referred to as non-educational or para-educational practices, I focus on the question of how the normative status of a practice relates to its paternalistic justification.

The assumed wrongness of paternalism is often based on implicit assumptions about the wrongness of the *practices* involved (e.g., coercion), without taking into account whether it is indeed the *paternalistic* justification of these practices that marks the central wrong-making feature of the practice or the practice *itself*. Thus, many anti-paternalist prejudices against paternalism are due to an identification of paternalism with certain practices that are regarded as paradigmatic for paternalism as such *and* as (categorically or *pro tanto*) morally wrong (e.g., coercion), an identification that underestimates the immense plurality of possible practical realizations of paternalism in educational constellations. In light of standard accounts of paternalism, one may accordingly assume that the paternalistic justification of a practice (manipulation) that is often interpreted as *prima facie* morally wrong constitutes an additional moral wrong towards the agent in the sense that two moral wrongs are worse than a single moral wrong. Contrary to this assumption, the assumed inherent wrongness of particular elements of paternalistically justified practices can in certain contexts be transformed into a right-making feature of the practices in question. Take the example of manipulation. Blumenthal-Barby defines manipulation as follows:

Non-argumentative influence is influence that operates either by bypassing a person’s awareness or by relying on facts about the subject’s psychology, such as knowledge about his emotions, how he perceives things, how he makes judgments and decisions, and what he desires. (2014, p. 123)

Manipulation conceptualized in this way is—even though widespread in educational circumstances—arguably in many cases regarded as a morally problematic practice that is in need of justification. Nevertheless, it would be a rather exalted position to qualify every type, and especially milder forms, of manipulation in educational constellations as *per se* illegitimate (Sunstein, 2015b). The interesting point I want to emphasize is that in many contexts it makes a crucial difference for our moral evaluation whether manipulations are motivated by a malevolent, an egoistic or a benevolent intention. Paternalistically justified practices are per definition benevolent. Trying to manipulate a child for the sake of securing an important aspect of her well-being is thus obviously evaluated differently from profit-oriented forms of manipulation by, for instance, a mobile phone seller. Thus, benevolence

as such is certainly not *per se* a right-making and also not *per se* a wrong-making feature of paternalistically justified practices. The same also holds for other aspects of paternalistically justified practices: The superiority condition *can* be interpreted as displaying an insulting attitude to X (cf. Anderson, 2009) because the paternalist either assumes to know better about the well-being of X than X herself or claims to be more competent in a particular domain than X. To approach X with a realistic view of her “real abilities and real limitations” (Conly, 2013, p. 41) is, however, in many contexts certainly neither *per se* insulting nor degrading. To claim the opposite is to rely on an overly demanding conception of autonomy as well as on an empirically false and arguably paternalistically motivated interpretation of how ordinary agents actually *do* or *should* understand themselves. Likewise, solipsist or extreme anti-paternalist positions aside, it seems hardly plausible to rule out in principle that other individuals or institutions (e.g., friends, parents, the liberal state) sometimes are in an epistemic and evaluative position to know better about X’s well-being than X herself, and that such an attitude is neither meant to be insulting nor perceived as insulting. The additive and context-invariant view on the moral wrongs of paternalism therefore exhibits a misguided picture of the evaluative issues at stake.

To conclude: Generalized judgments about the legitimacy or wrong-making features of both rationales and principles as well as practices overestimate the capacity of philosophical armchair reasoning to provide adequate guidance for the evaluation of particular cases. There is no rationality continuum between the theoretical reconstruction of paternalism and paternalism in practice, and no easy and straightforward way from general principles to well-founded judgments about concrete constellations. None of the criteria constitutive of putative paternalist wrongs towards children (superiority condition, substitution of judgment, interference, benevolence, etc.) are plausible candidates to justify generalized anti-paternalist caveats against educational paternalism as such and against the immense plurality of paternalistically justified educational practices. Therefore, it is plausible to assume that the wrong- and right-making features of paternalism are much more context-sensitive than usually assumed. Different components of paternalism in terms of rationales and reasons, as well as paternalistically motivated arrangements, practices and constellations are not immune from *polarity reversal* (Dancy, 2000) and can be interpreted as right- or wrong-making features depending on the context, its metaphorical description and the normative, conceptual and empirical background assumptions involved. Accordingly, in the case of the theory and practice of educational paternalism and paternalism more generally, it is plausible to assume the following:

[What] is a reason in one case may be no reason at all in another, or even a reason on the other side. In ethics, a feature that makes one action better can make another one worse, and make no difference at all to a third. (Dancy, 2013, p. 4)

A moral-particularist approach (Dancy, 2013; Tsu, 2013) to the wrongs and rights of educational paternalism draws on the idea of a *holism of reasons* to emphasize the variable relevance of normative features of paternalistically justified practices and constellations.<sup>9</sup> Thereby it offers a more adequate and

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<sup>9</sup> It should be noted that a holism of reasons comes in degrees in terms of context-sensitivity and is not necessarily true of all reasons to the same extent. As Dancy puts it: “The strongest form of context-sensitivity would be the claim that every reason is somehow altered with every change of context. The weakest form is the claim that reasons are on occasions capable of being altered by a change in the context. The form of holism that I recommend is pretty weak on *this* scale, so far as the modality goes, but strong on the extent of the domain. I

realistic theoretical framework to make sense both of the context-variance of the multiplicity of normative factors that may be taken into account as pro-, non- or anti- paternalist reasons in a particular context, and of the way the pros and cons of paternalism are evaluated in practice. In practice, educational professionals arguably usually do not (and often cannot) ask themselves if this or that principle applies to a case at hand, but rather assess the normative relevance of a plurality of factors *in situ* depending on the context. An anti-generalist approach that is skeptical concerning the capacity to provide ethical orientation via absolutist and *prima facie* principles and a context-invariant analysis of the status of moral reasons allows for more leeway in interpreting and evaluating particular cases. This does not imply arbitrariness or that it makes no sense to attempt to develop the most accurate possible account of the normatively relevant features in the context of a particular constellation. It just implies that the idea of a complete “canon of principles” that enables us to determine the moral status of each and every form of paternalism in each and every case can be regarded as a “principlist utopia” (Düber, 2016, p. 175; cf. Wright, 2016). Taking into account the never-ending debates about the relation between theory and practice in educational theory (e.g., debates about what Herbart called “pedagogical tact”; cf. Müller, 2015), this meta-ethical and methodological result is certainly not surprising.

Theoretical insights about education, however, are sometimes not easily reconcilable with the structure of practical educational tasks. This also holds in the case of a moral particularist position. This is one of the reasons why, despite the theoretical problems and difficulties outlined above, we certainly cannot and should not abandon generalist justificatory methodologies for all practical purposes and in all educational contexts. Tendency rules, principles and general criteria-sets are, for instance, probably indispensable for the sake of *consciousness-raising* concerning the value conflicts that are central for educational paternalism in the context of the training of educational professionals and of moral education more generally (cf. Drerup, 2013). For purposes like these a generalist framework can provide a useful supplement to case-based and phronetic approaches to educational ethics (Fay & Levinson, 2016). This position is not inconsistent when one takes into account that an acknowledgement of the complex relation and the transfer problems between theory and practice should itself be part of educational training and the professional self-understanding of educational practitioners. To put it metaphorically: The generalist provides a rather imprecise and provisional theoretical map that allows us to develop a basic and often contested idea of what we may expect before we explore the moral landscape in terms of concrete real-world cases (and not just idealized scenarios and stylized examples). In the course of the journey, things usually turn out much more complicated. We have to deal with unexpected obstacles, make detours, *et cetera*, and as reflective practitioners rely on our power of moral judgment to decide which ethical way to pursue given the contextual features of the landscape. The generalist map itself, however, even though indispensable to begin with, in the end is often only of limited use when it comes to the ethical orientation in particular cases.

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maintain that *all* reasons are *capable* of being altered by changes in context—that there is none whose nature as reasons is necessarily immune to changes of context” (Dancy, 2000, p. 130).

## Conclusion: Educational Paternalism in Context

Metaphors structure the way we think and act, and thereby “direct” and “lead” our evaluative judgments (Blumenberg, 1997, p. 105 f.n. 6). One of the many reasons why paternalism is often used as a term of criticism in popular and scientific debates is probably due to its central pedagogical background metaphor which suggests that paternalists treat individuals “like a father treats his children.” While the usage of paternalism as a “dirty term” reveals a rather pessimistic view of fatherhood (Grill, 2012, p. 1) and presupposes that we already know what is at stake in the evaluation of the rights and wrongs of paternalist rationales and paternalistically justified practices in the case of children *and* adults, in this essay I hope to have shown that things are much more complex and complicated. If the foregoing methodological analysis is correct, a sufficiently fine-grained approach to the ethics of educational paternalism will not be able to make a plausible context-invariant case either for or against paternalism towards children on the level of general rationales or principles, nor on the level of general considerations about the moral status of paternalistically justified practices. A moral particularist reframing of the methodological prerequisites of current justificatory approaches may offer an explanation for many of the intricacies to delineate and identify the wrongs and rights of paternalism that have permeated the debate for decades (e.g., the perpetual interplay between examples, counterexamples and reformulations of reasons, rationales and principles of a supposedly context-invariant moral status). Such reframing also indicates that these hermeneutical and ethical challenges have to be dealt with based on our power of moral judgement and case by case.

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